

Ordinance No. \_\_\_\_      ORDINANCE:      To Grant Text Amendment Application No.  
TXT2000-00186, as amended, Mayor and Council  
of Rockville, Applicant

WHEREAS, the Mayor and Council of Rockville, 111 Maryland Avenue, Rockville, Maryland 20850, filed Text Amendment Application TXT2000-00186, for the purpose of amending the provisions relating to undergrounding of utilities; and

WHEREAS, the Planning Commission reviewed the proposed text amendment application at its October 3, 2001 and October 24, 2001, meetings and recommended that the Mayor and Council consider certain modifications as set forth in a memorandum dated October 30, 2001; and

WHEREAS, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on said application would be held by the Mayor and Council in the Council Chambers at Rockville City Hall on November 19, 2001, at 7:30 p.m. or as soon thereafter as it may be heard; and

WHEREAS, on November 19, 2001, said application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, a worksession was held on the proposed application on March 4, 2002 at which the Mayor and Council requested that the proposed text amendment be modified; and

WHEREAS, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on the modified language of said application would be held by the Mayor and Council in the Council Chambers at Rockville City Hall on May 20, 2002, at 7:30 p.m. or as soon thereafter as it may be heard; and

WHEREAS, on May 20, 2002, said modified application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, an additional worksession was held by the Mayor and Council on July 8, 2002; and

WHEREAS, following said worksession the Mayor and Council determined that certain additional modifications to the application were appropriate; and

WHEREAS, an additional worksession was held by the Mayor and Council on July 7, 2003; and

WHEREAS, following said worksession the Mayor and Council determined that certain additional modifications to the application were appropriate; and

WHEREAS, the Mayor and Council having considered the text amendment application, and the entire file pertaining thereto, said Mayor and Council having decided that the granting of this application, as amended, in the form set forth below would promote the health, safety and welfare of the citizens of the City of Rockville.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that Text Amendment Application No. TXT2000-00186 be, and the same is hereby, granted, as amended, by amending Section 25-437, "Screening or underground installation of transformers and equipment lockers required; underground installation of utility lines required" to read as follows:

Sec. 25-437. Screening or underground installation of transformers and equipment lockers required; underground installation of [[utility]] electric, telecommunications, and cable television lines and cables required.

[It is the policy of the City to have all electric, telephone and other utility lines, cables, transformers and equipment lockers placed underground in all zones. Except as set forth in (a) and (b) below, whenever an extension or relocation of any electric, telephone or other utility

line, cable, transformer, or equipment locker is required in connection with the development or redevelopment of any land, any such extension or relocation shall be installed underground.]

(a) For purposes of this section, the following words, terms and phrases shall have the meanings ascribed to them in this subsection:

*Active equipment* means electric, telecommunications, or cable television equipment or components that utilize power from another source to accomplish their task. Heat is a byproduct of this function and must be dissipated to insure proper operation, reliability and life span. Active equipment tends to be larger in size than passive equipment (Examples: amplifiers, power supplies, nodes, transformers).

*Passive equipment* means electric, telecommunications, or cable television equipment or components that do not utilize power from another source to accomplish their task, and thus do not have the heat byproduct of active equipment. This significantly reduces or eliminates the need for heat dissipation. Passive equipment tend to be much smaller than active equipment (Examples: taps, splitters, couplers, splice blocks or frames).

*Relocation of electric, telecommunications, or cable television line or cables* means the moving of three (3) or more consecutive poles within the same pole line and their connecting cable or line spans.

*Service degradation* means the reduction in the quality of electric, telecommunications, or cable television service in violation of state or federal laws or regulations or contrary to the terms of any governing contractual agreements.

(b) Except as set forth in (c) below, whenever an extension or relocation of any electric, telecommunication or cable television line or cable on, adjacent to, or confronting any land is

required in connection with the development or redevelopment of said land, any such extension or relocation shall be installed underground.

[[ (a) ] (c) In all zones, for good cause shown, the Planning Commission may approve the extension and/or relocation above ground of electric utility lines not providing direct permanent service in connection with the development or redevelopment of any land within a comprehensive planned development, provided that any such extension and/or relocation may be approved by the Chief of Planning for any application filed prior to December 1, 1995.

Conditions may be attached to any such approval in order to ensure [that] the health, safety, and welfare of persons and property in the neighborhood. Notwithstanding the above, prior to the issuance of an occupancy permit for any development or redevelopment within a comprehensive planned development south of Wootton Parkway and east of Interstate 270, any electric utility lines providing direct service to the development, which have been previously approved for extension and/or relocation aboveground, [shall] must be installed underground.

[[ (b) In all zones, electric, telephone, and other utility lines and cables must be installed underground in connection with the development or redevelopment of any land wherever an extension of the same is required in connection with such development or redevelopment. ]]

[[ (c) ] (d) Below ground is the preferred placement of all new installations of transformers and equipment cabinets, plus other types of equipment (except for electric meters for single-family residences) used to provide electric, telecommunication, and cable television[ , and electric utility] services in connection with the development or redevelopment of any land wherever an [extension ] installation of the same is required in connection with such

development or redevelopment. In recognition that placement underground is not always the most appropriate location, the following provisions apply:

(1) Electric, telecommunications, and cable television equipment serving all new multi-family residential construction is required to be placed below ground or enclosed in a building, including multifamily residential construction.

(2) In all Town Center Zones, electric, telecommunications, and cable television equipment is required to be placed below ground or enclosed in a building.

(3) In all areas of the City not covered under subsection (d) (1) or (2) above, electric, telecommunications, and cable television equipment is required to be placed below ground or incorporated into a building unless shall be located in accordance with the following requirements:

a. All passive equipment, including any enclosure thereof, is required to be placed below ground or incorporated into a building.

b. Active equipment, including any enclosure thereof, that has main body dimensions (excluding small attachments such as switch boxes, meters and vents) which exceed a combined total measurement of 58 inches in height, depth and width shall be placed underground or be flush-mounted at grade. Equipment shall be considered flush mounted if its body (excluding small attachments such as vents or similar small protrusions) extends vertically no more than five (5) inches above grade.

c. Active equipment, including any enclosure thereof, that have main body dimensions that do not exceed a combined total measurement of 58 inches in height, depth

and width may be installed above ground. If mounted on a pad, the pad height cannot exceed three (3) inches above the finished grade. Such installations are subject to the following:

[[a.]] 1. Except as provided in subsection [[c.]] (d) (3) c.6. below, screening for electric[[al]], telecommunications, and cable television equipment must be at one hundred percent (100%) opacity, minus a gap not exceeding 18 inches wide to allow for maintenance access to the equipment. This screen may consist of either vegetative or building materials[[:]]. Other types of enclosures intended to camouflage the equipment may be utilized in lieu of vegetative or building materials if approved by the Planning Commission.

2. Vegetative screening must be designed to result in 100% opacity within 3 years of planting.

[[b.]] 3. If building materials are used for screening, the enclosures must be located adjacent to a building or other structure on the site, must be designed in a manner that is complementary to the [[existing building]] architecture [[including materials]] and scale of the adjacent building or structure [[must be located adjacent to a building]], must comply with applicable setbacks, and must be made of the same building materials as the adjacent building or structure.[[: and,]]

[[c.]] 4. The side of the enclosure [[surrounding the electrical, telecommunications, and cable television equipment]] that provides access to the equipment must be oriented and either gated or screened in a manner that provides access while minimizing the visual impacts of the [[electrical, telecommunications, and cable television]] equipment.

5. To the extent possible, the equipment must be installed in a location that minimizes the visibility of the equipment.

6. Where practical, all above ground electric, telecommunications, and cable television equipment not incorporated into a building must be clustered with other utility equipment and dumpsters, trash enclosures and generators within a single enclosure. An access to said enclosure larger than 18 inches may be approved by the applicable approval authority, subject to such gating or screening requirements as deemed appropriate by such approval authority.

(e) A waiver of any requirement of [[this]] subsection [(c)] (d) for the placement of [[utility]] electric, telecommunications, or cable television equipment underground may be granted by the Planning Commission, subject to the provision of such screening as may reasonably be required by the Planning Commission, [[if the utility equipment cannot operate below ground, if there is a unique or peculiar site condition that provides a physical impediment to installing equipment underground, or if it would be unsafe to locate the equipment underground.]] for any of the following reasons:

(1) a unique or peculiar site condition provides a physical impediment to installing equipment underground; or

(2) it would be unsafe to locate the equipment underground; or

(3) the equipment cannot successfully operate below ground. A waiver shall not be granted for this reason unless it is demonstrated and fully documented that similar equipment placed underground in a similar environment (soil composition, temperature, weather) has resulted in service degradation, and that reasonable improvements in maintenance and/or equipment cannot improve the quality of service. The service degradation must be primarily attributable to the underground installation of equipment.

(f) The Planning Commission may allow equipment that has been placed underground in compliance with the provisions of this section to be relocated above ground if the owner of such equipment can demonstrate and fully document that, after a period of not less than two months, the undergrounding of the equipment has resulted in service degradation, and that reasonable improvements in maintenance and/or equipment cannot restore and/or improve the quality of service. The service degradation must be primarily attributable to the underground installation of equipment.

~~[(b)]~~ ~~[(d)]~~ [For good cause shown, the Planning Commission may allow aboveground installation of transformers and equipment lockers subject to the provision of such screening as may reasonably be required by the Planning Commission.] ~~[[All above ground electrical, telecommunications, and cable television equipment on a site must be clustered with other utility equipment and dumpsters, trash enclosures and generators, where practical.]]~~

~~[(e)]~~ (g) To the extent possible, all [[All]] government entities are required to screen or underground their [[utility]] electric, telecommunication, and cable television equipment [[to minimize the negative visual impact of such equipment]] in accordance with the requirements of this section.

(h) Nothing herein shall require any electric, telecommunication, or cable television service provider to place any electric, telecommunications, or cable television equipment underground in connection with the maintenance or upgrading of existing above-ground lines, cables, or equipment provided that:

(1) All upgrading of existing overhead lines must be on existing utility poles.  
Existing poles may be replaced at the same approximate location.



(2) All new connections from existing above-ground poles to any new development, including additions to existing development, shall be installed underground. All transformers required exclusively for such new connections shall be installed underground.

(3) All upgrading of existing underground lines, cables, and equipment shall be installed underground.

Note: [Brackets] indicate material deleted  
Underlining indicates material added  
[[Double brackets]] indicate material deleted after introduction  
Double underlining indicates material added after introduction

\* \* \* \* \*

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of

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Claire F. Funkhouser, CMC, City Clerk